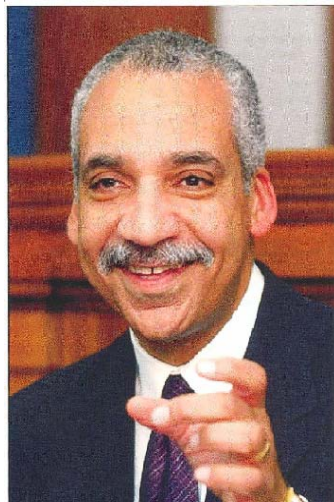


## INTERVIEW

Heading a team of nine police experts, **Saul A. Green** is the court-appointed Independent Monitor in Cincinnati (OH). He was selected in December 2002 to monitor Cincinnati's compliance with the Memorandum of Agreement (MOA), between the U.S. Justice Department, City of Cincinnati, and Cincinnati Police Department (CPD), as well as the Collaborative Agreement



(CA), involving Cincinnati community members, the Fraternal Order of Police, City, and CPD. The MOA mandates reforms in police department policies, procedures and training whereas the CA's goal is to improve police/community relations. **PARC** recently spoke with Saul Green about his work in Cincinnati and the particular challenges monitoring compliance with two separate agreements.

**PARC:** Please briefly describe your professional background and how it led you to become the monitor in Cincinnati.

**SG:** I've been practicing law in Detroit for a little over 30 years. As part of that practice, I had a couple of stints at the U.S. Attorney's Office in Detroit. Back in the early 70s, I served as an Assistant U.S. Attorney for three years. And then from 1994 to 2001, I was the United States Attorney for the Eastern District of Michigan. That experience as U.S. Attorney, I think, is probably what best prepared me for the role of monitor and probably had a lot to do with my selection. As U.S. Attorney, of course, you're dealing with law enforcement issues constantly, so that gave me background. Second, the Detroit Police Department was going through a "pattern or practice" investigation by the Department of Justice toward the end of my tenure as U.S. Attorney, and that "pattern or practice" investigation was one I had jointly called for and participated in. I think those were aspects of my background that were very important. Another aspect I think was helpful was since the Collaborative

Agreement in Cincinnati called for significant police-community interaction and building of trust. As U.S. Attorney I spent a lot of time here in the Detroit area—advancing idea of partnerships between law enforcement, the community, schools, and businesses trying to come together to deal with public safety issues. I think all of those things had a lot to do with my selection.

**PARC:** As you started your work in Cincinnati, how were you received by city officials, police leaders, and the community generally?

**SG:** I think it was a very positive and warm reception. It had two phases to it. I think the first stage was very positive and very warm, and that's because the City of Cincinnati had gone through the trauma of having selected a monitor, and that had not worked out. The previous monitor had only been in place about 30 days, and it was determined he and his team needed to be replaced. So I think the city was very happy to get a replacement. But soon thereafter we began meeting with the parties individually, and you soon came to recognize that as happy as they were to have us there, each of the parties has a very, very different perspective on what the stakes are, and each of the parties was very serious in trying to get across to us their position and what they wanted us to do in order to monitor properly or appropriately in their eyes. So initially, very happy and warm; eventually, very serious about trying to—how could I say it?—lobby us about how to monitor.

**PARC:** What events or issues led to the Memorandum of Agreement and Collaborative Agreement in Cincinnati?

**SG:** When you look at Cincinnati historically, it has for decades had very strained relations between the police department and particularly the African American community. If you go back, there have been various commissions that have looked into the issues, there's been a lot of litigation, and then in the year 2000 the ACLU brought a suit on behalf of a gentleman, Bomani Tyehimba [the lead plaintiff in the class-action racial profiling lawsuit that led to the Collaborative Agreement], in which they alleged that African Americans had been treated differently in traffic stops and in other encounters with police. The case was assigned to Judge Susan Dlott, and Judge Dlott decided that as opposed to trying to resolve it through the typical course of litigation, that they

would use an Alternate Dispute Resolution process to bring the parties together, to try to work on these issues perhaps in a more constructive way than results from litigation. The Collaborative was really borne out of that, as I understand it. This, of course, was before the monitor was in place, and so some of this I had to learn historically. So you had representatives from the African American Community, you had the police at the table, and the Fraternal Order of Police—the union—was invited and accepted a place at the table. That really formed the basis for the Collaborative moving forward.

About that same time, you had the shooting in April 2001 of Timothy Thomas that resulted in civil unrest for several days in Cincinnati, and soon thereafter Mayor Luken called for a Department of

Justice investigation. That got the “pattern or practice” investigation going, and these two things were running on parallel and courses and you end up with the DOJ “pattern or practice” investigation resulting in the Memorandum of Agreement, and you have and the collaborative process resulting in the Collaborative Agreement coming to fruition at the same time. So I think, historically, those were the actions, the activities that led to two agreements in Cincinnati.

**PARC:** *What do the agreements require and how do they differ?*

**SG:** The Memorandum of Agreement between the city and the police department is somewhat typical of Memoranda of Agreement that are in place in the 10 or 12 localities around the country dealing with police reform resulting from “pattern or practice” investigations. Basically, what they looked at in Cincinnati was use of force issues, training issues, risk management issues, how use of force and other issues were investigated and documented, and citizen oversight. The MOA really calls for a number of policy changes that had to be implemented to deal with those issues, and it calls for training that should be consistent with those policy changes, and then it called

for implementation of those policies. And so when we look at the MOA in that regard; it really deals with issues of professionalism of the police department around these reform issues. The Collaborative Agreement is different in that beyond the issue of what policy, training, and implementation has to be undertaken, it attempts to review, measure and gauge the degree to which these changes have impacted the relationships within the City of Cincinnati—in other words how the police and community relate and react to each other. The other really significant aspect of it is that it calls for Community Problem-Oriented

Policing (CPOP) to be the principle way in which policing is done in Cincinnati. Memoranda of Agreement generally don’t address the manner with which an agency polices. In Cincinnati,

through the Collaborative Agreement, it actually talks about the manner, how it is expected that the Cincinnati Police Department will police in the future.

**PARC:** *What are the particular challenges you face in monitoring compliance with two agreements in Cincinnati?*

**SG:** Some of them are practical. One is the fact that you have two agreements. Again, Cincinnati is the only locale where you have an investigation by the Department of Justice resulting in a Memorandum of Agreement and then, on top of it, a second agreement—the Collaborative Agreement. Just the fact that you are monitoring two agreements makes it a little bit more complicated, time-consuming, and resource intensive. Also, the Collaborative Agreement means that you have more parties at the table. Again, typically under a Memorandum of Agreement, you’ve got the city/police department and the Department of Justice at the table. Under the Collaborative Agreement, you’ve got the police department, you’ve got the plaintiffs—meaning the representatives of the African-American community—and you’ve got the union. So you’ve got more parties to deal with. Under the Collaborative Agreement, since you’re not really

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dealing with things as focused and almost clinical as putting a policy in place, training on the policy, and then trying to figure out whether or not it's being implemented, instead you've got a call to all sides to really deal with each other differently, to dialogue differently, to try to establish trust. The Collaborative Agreement calls upon us to try to figure out to what extent that's happening and how to evaluate the extent of change that has resulted from the Parties' participation in these agreements.

**PARC:** *Are there ways the MOA and CA conflict with each other? How do they complement each other?*

**SG:** I can't tell you a conflict that exists between the two documents. The use-of-force requirements are almost repeated verbatim in the Collaborative Agreement, and also the call for a citizen's complaint authority—civilian oversight—is very much mirrored in the Collaborative Agreement and doesn't conflict in any way. They complement each other because what you have is the ability to enforce breaches in the Memorandum of Agreement through provisions that are in the Collaborative Agreement. They build on each other, particularly in the area of enforcement.

**PARC:** *Are there aspects of the CA that you believe should be incorporated into future "pattern or practice" agreements between the Justice Department and law enforcement agencies?*

**SG:** There may be. I think it is important to note that the Department of Justice is not a party to the Collaborative Agreement. My guess is they see their role in a very clear way, and it is, again, to require the kind of policy, training and operational changes that are typically in Memoranda of Agreement and not to get involved in the kind of evaluative components that are found in the Collaborative Agreement. It would probably only occur if the Department really found that there was value in what's going on in Cincinnati and agreed to start to incorporate some of the CA provisions in MOAs. I think what is important to

understand, and I think that's why success in Cincinnati is important for police reform nationally, for me as Monitor—and as a citizen here in Detroit where there are two Memoranda of Agreement in place—is that it's possible to go through and do everything that a Memorandum of Agreement envisions and still not really impact the trust relationships between a police department and major components of a community. You could still end up not touching issues of trust, not touching issues of mutual accountability and respect, and ultimately I think that's what a lot of these issues related to police reform boil down to.

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**PARC:** *What strategies did you employ to gain the trust and cooperation of the city and police department?*

**SG:** We routinely meet with all of the parties. Generally once a month we

have what we call an "All Parties" meeting. This is for the parties to both the Memorandum of Agreement and Collaborative Agreement, where we meet around the table to go through both agreements to talk about where things are hopefully going well but also if there are snafus, things that need to be dealt with and improved upon. And so you have general communication with all of the parties, but I also make it a practice—and they are all well aware of this—to meet with all of the parties at times individually just to talk about the agreements and their performance and where we're going and how we're progressing. I find those meetings as important as the "All Parties" meetings because the fact of the matter is there are things you need to be able to say to the parties to encourage them or to understand their perspectives that need to be said just between a particular party and the Monitor. I have those kinds of meetings with the City—they are often long and very detailed; they can be very emotional. It's a way of understanding their perspective better, it's a way for them to be able to vent directly to me about issues. It's probably one of the most important ways to try to create some form of relationship and understanding of a party's perspective and hopefully building some trust.

**PARC:** *How did you pick the members of your monitoring team and delegate monitoring responsibilities?*

**SG:** We constructed the team around the agreements. In other words, we looked very carefully at what the agreements called for and selected people who were experienced in the issues covered by the agreements, such as use of force, or people who could take a look at early warning systems and the associated technology. We knew, for example, that on the Collaborative Agreement side, Cincinnati's decision to use Problem-Oriented Policing as their principle way of accomplishing public safety would mean we would need CPOP experts. Early on I was very fortunate to have and continue to have as a deputy monitor a gentleman named Richard Jerome, whom I knew from the Department of Justice when I was U.S. Attorney. Richard kept very much abreast of policing issues both while he was at Justice and after leaving Justice. So it was a matter of trying to work together to first figure out who were the experts in all of these different areas and then to and figure out who was available and who we thought could work with us in a constructive way. You build a team around the requirements of the agreement or agreements and hope you get the people who not only have the expertise but have the kind of personality and demeanor to work well together. We have an outstanding team.

**PARC:** *How would you describe your relationship with the Cincinnati Police Department? What strategies have you used to try to establish and maintain a positive working relationship?*

**SG:** I think the relationship has been productive and generally pretty positive. With the police department, you need to accomplish a couple of things. So much of what occurs during the course of monitoring an agreement or agreements is the need for good, efficient, and trustworthy exchange of information; you need to be able to get documents quickly; you need to be able to have full and unfettered access to

personnel. The City of Cincinnati and the Cincinnati Police Department provided that to us pretty early on. I think they've been very good at that aspect of the relationship. The other aspect of the relationship is that you want a working relationship that is open and candid recognizing there will at times be tension. It's inevitable that if you've got any type of entity, whether it's a law enforcement organization or some form of business, that is required to have someone come in and take a look at your operations, that's not something that is easily swallowed. Recognizing and understanding that, we have tried to be as accommodating as possible in terms of the kinds of demands we've made for information, and we've just simply recognized that there are going to be times when there is tension between our monitoring responsibilities and their policing responsibilities in terms of getting documentation and exchanging

information. You try to work through those times. As I mentioned earlier, we have meetings individually with parties, so we will meet with the Cincinnati Police Department, with a representative

group from the police department around the issues we're looking at. At times I have also met individually with Chief [Thomas] Streicher in an effort to talk about how things are going and hopefully work through difficult issues.

**PARC:** *Have you worked with the police rank-and-file to explain your role and to get their support for the two agreements' implementation?*

**SG:** Fortunately, you do have the union at the table as a party, and so reaching out is easier in this context than it might be in those situations where there is a Memorandum of Agreement and you don't have the union as a party. Routinely, they have a representative at all of the monthly "All Parties" meetings. Just like with the police department, just like with the plaintiffs, we do go and talk with the union leadership—members of my team and their executive board, or myself and the union president or the union president and the vice president—in an effort to have

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some exchange of dialogue and to enlist support. There is one-on-one with them in the same way that it occurs with other parties.

**PARC:** *What has been the impact of the CA on community/police relations and trust? What can monitors do to help build trust between the community and police?*

**SG:** I've seen some improvement but not enough. We just issued our sixth report on July 1—we have to report every 90 days. In that report, I talked about improvement and progress on the Memorandum of Agreement side but the fact that there's still a lot of work to be done on the Collaborative side. In terms of improvement and progress, one thing that Cincinnati has done, which could prove to be a model for other cities

dealing with issues of police-community trust, is they've put in place what they call a "partnering center." It's really a non-profit organization with what are called

"outreach workers," who work with the police and communities around problem-solving. They are in the process of going through training right now with various communities, and this training is conducted by the police department and the partnering center outreach workers together introducing Problem-Oriented Policing to communities—community by community. I think it's an excellent concept, and it's something that is starting to have some impact. What I believe hasn't yet been accomplished is real dialogue between the police department and the African American community. There was a recent cable cast on Use of Force sponsored by the National Urban League and the Department of Justice that was attended by Chief Streicher, other CPD members, and members of the African American Community. A forum is planned for August centering around CPOP that all of the Parties will participate in. We need more of this. In most investigations that culminate in a Memorandum of Agreement, they almost always relate to issues between the police department and communities of color. Tension in Cincinnati is still present. I've had discussions with community leaders and political leaders over the last several months, and

they recognize that there is still work to be done on establishing dialogue between the police department and the African American community about how policing is done on a day-to-day basis and the whole issue of trust and accountability. There has been progress, but there is still room for a lot more.

**PARC:** *What advice would you offer new monitors in other jurisdictions?*

**SG:** It's a little hard to advise them because the situation in Cincinnati is so unique. The situation in Cincinnati, based on the existence of a Collaborative Agreement, really instructs the parties and therefore the Monitor to involve the parties beyond policies, training, and implementation of policy changes and says, "Parties,

you need to deal with each other in a new way. You need to work on issues of trust and accountability." I think those are issues that lurk in every situation where police reform is taking

place. It would be wonderful if the parties in those communities and the monitor could try to work through those kinds of issues and help to improve the relationships in a community. The problem is that under the standard MOA, you don't have representatives of the community, you may not have the union, and therefore you don't have the integral parties to make that happen. I think if change is going to be real, and if change is going to be longstanding, then the parties and the monitor need to talk about the relationships, need to talk about dialogue, need to talk about how you accomplish trust and mutual accountability. I think those are important issues. Whether it can be done in the context of a classic Memorandum of Agreement, I'm just not sure.

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